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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,110	12/23/2003	Norikazu Arai	02860.0637-06	8016
22852	7590	09/10/2004	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			CHU, KIM KWOK	
			ART UNIT	PAPER NUMBER
			2653	

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/743,110

Applicant(s)

ARAI ET AL.

Examiner

Kim-Kwok CHU

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Pre-Amet filed on 12/23/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-10,13-15,19,25,26,50,62,65,68,76,77,84-87,90-92,96,102,128 and 134-136 is/are rejected.
- 7) ☒ Claim(s) 113 and 114 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/487,928.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 1,7-10,13-15,19,25,26,50,62,65,68,76,77,84-87,90-92,96,102,113,114,128 and 134-136.

**Claim Rejections - 35 USC § 102**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless -  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

2. Claims 1, 7-10, 25, 26, 50, 62, 65, 68, 76, 77, 84-87, 102, 128, 134, 135 and 136 are rejected under 35 U.S.C. § 102(b) as being anticipated by Katayama (U.S. Patent 5,696,750).

Katayama teaches an optical reproduction apparatus for reproducing information from an optical recording medium having all the elements and means recited in claims 1, 7, 8, 10, 25, 26, 50, 62, 65, 68 and 76. For example, Katayama teaches the following:

(a) as in claim 1, a first light source 11 for emitting a first light flux having a first wavelength (635 nm) for reproducing or recording information from or onto a first optical information recording medium A having a first transparent substrate and a first information recording plane, the first transparent substrate having a first thickness (Fig. 8);

(b) as in claim 1, a second light source 12 for emitting a second light flux having a second wavelength (735 nm) for reproducing or recording information from or onto a second optical information recording medium B having a second transparent substrate and a second information recording plane, the second transparent substrate having a second thickness (Fig. 8);

(c) as in claim 1, the first wavelength being different from the second wavelength, and the first-thickness being different from the second thickness (Fig. 8; abstract);

(d) as in claim 1, a converging optical system 5" having an optical axis, a first diffractive portion 502, and a second diffractive portion 509 farther from the optical axis than the first diffractive portion 502 (Fig. 9);

(e) as in claim 1, a photodetector 1403 for receiving light flux reflected from the first information recording plane or the second information recording plane (Fig. 14);

(f) as in claim 1, the first light flux passes through the first diffractive portion 502 to generate at least one diffracted ray (Fig. 9; column 7, lines 65-67),

(g) as in claim 1, an amount of first n-th ordered diffracted ray of the first light flux is greater than that of any other ordered diffracted ray of the first light flux,

wherein  $n$  stands for an integer other than zero (Figs. 9 and 14; column 10, lines 39-45);

(h) as in claim 1, the second light flux passes through the first diffractive portion 502 to generate at least one diffracted ray (Figs. 9 and 14; column 8, lines 10-12);

(i) as in claim 1, an amount of second  $n$ -th ordered diffracted ray of the first light flux is greater than that of any other ordered diffracted ray of the second light flux, wherein  $n$  stands for an integer other than zero (Figs. 9 and 14; column 10, lines 39-45);

(j) as in claim 1, the converging optical system 5" converges the first  $n$ -th ordered diffracted ray of the first light flux which passes through the first diffractive portion 502 and a diffracted ray of the first light flux which passes through the second diffractive portion 509 on the first information recording plane of the first optical information recording medium A through the first transparent substrate so as to reproduce or record information from or onto the first optical information recording medium A (Figs. 8 and 9, first light flux passes through 509 and 502);

(k) as in claim 1, the converging optical system 5" converges the second  $n$ -th-ordered diffracted ray of the second light flux which passes through the first diffractive portion 502 on the second information recording plane of the second

optical information recording medium B through the second transparent substrate so as to reproduce or record information from or onto the second optical information recording medium B (Figs. 8 and 9);

(l) as in claim 7,  $\lambda_1 < \lambda_2$ , and  $t_1 < t_2$  ( $\lambda_1$  is 635nm,  $\lambda_2$  is 785nm,  $t_1$  is typically 0.6mm such as DVD,  $t_2$  is 1.2mm such as CD-ROM);

(m) as in claim 8,  $NA_1 > NA_2$  (column 9, lines 47-49,  $NA_1$  is 0.8 and  $NA_2$  is 0.45);

(n) as in claims 9 and 50,  $n$  is +1 or -1 (column 7, lines 65-66);

(o) as in claim 10,

(1)  $0.55 \text{ mm} < t_1 < 0.65 \text{ mm}$  (DVD);

(2)  $1.1 \text{ mm} < t_2 < 1.3 \text{ mm}$  (CD);

(3)  $630 \text{ nm} < \lambda_1 < 679 \text{ nm}$  (column 5, lines 49-51);

(4)  $760 \text{ nm} < \lambda_2 < 820 \text{ nm}$  (column 5, lines 49-51);

(5)  $0.55 < NA_1 < 0.68$  (column 5, lines 25 and 26);

(6)  $0.4 < NA_2 < 0.55$  (column 5 lines 31-33).

(p) as in claim 25, a difference in wavelength between the first light flux (635 nm) and the second light flux (785 nm) is 80 nm to 400 nm;

(q) as in claim 26, the first diffractive portion and the second diffractive portion comprise a plurality of annular

bands formed coaxially around the optical axis or centered around a point near the optical axis (Fig. 9);

(r) as in claim 50, wherein  $n$  is  $+1$  or  $-1$ ;

(s) as in claim 62, the first light flux of non-parallel light flux is allowed to go into the objective lens when the first light flux is used, and the second light flux of non-parallel light flux is allowed to go into the objective lens when the second light flux is used (Fig. 8);

(t) as in claims 65, the first light flux of parallel light flux is allowed to go into the objective lens when the first light flux is used, and the second light flux of non-parallel light flux is allowed to go into the objective lens when the second light flux is used; or the first light flux of non-parallel light flux is allowed to go into the objective lens when the first light flux is used, and the second light flux of parallel light flux is allowed to go into the objective lens when the second light flux is used (Fig. 8);

(u) as in claim 68, the first light flux of parallel light flux is allowed to go into the objective lens when the first light flux is used, and the second light flux of parallel light flux is allowed to go into the objective lens when the second light flux is used (Fig. 8); and

(v) as in claim 76, over shoot is 0% to 20% (Fig. 8; detection of signal has no ringing problem).



3. Claims 77, 84-87, 102, 128 and 134 have limitations similar to those treated in the above rejection, and are met by the references as discussed above.

4. Claim 135 has limitations similar to those treated in the above rejection, and is met by the references as discussed above.

5. Method claim 136 is drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore method claim 136 corresponds to apparatus claim 1 and is rejected for the same reasons of anticipation as used above. In addition, claim 136 teaches the following feature which is also disclosed by the prior art of Katayama:

(a) as in claim 136, detecting, by a photo detector, a first reflected light flux of the converged n-th ordered diffracted light from the first information recording plane or a second reflected light flux of the converged n-th ordered diffracted light from the second information recording plane (Fig. 5).

**Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

7. Claims 13 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al (U.S. Patent 5,696,750) in view of Yoo et al. (U.S. Patent 6,363,046).

Katayama teaches an optical pickup very similar to that of the instant invention. However, Katayama does not teach the following:

(a) as in claims 13 and 90,  $\lambda_2$  is 780 nm.

Yoo teaches a DVD and CD-R recording system having  $\lambda_2 = 780$  nm (abstract).

A CD-R disk uses a laser source with a wavelength range about 780 nm as taught by Yoo. Even Katayama teaches that his CD-R disk uses a laser source with wavelength of 785 nm. For an alternate choice of a laser light source, it would have been obvious to one of ordinary skill in the art to replace Katayama's 785 nm laser source with Yoo's 780 nm laser source,

because both laser sources are within the wavelength range of a CD-R.

8. Claims 14, 15, 19, 91, 92 are 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al (U.S. Patent 5,696,750) in view of Saito et al. (U.S. Patent 6,192,021).

Katayama teaches an optical pickup very similar to that of the instant invention. However, Katayama does not teach the following:

(a) as in claims 14 and 91, the spherical aberration of the objective lens comprises a discontinuing section in at least one place;

(b) as in claims 15 and 92, the discontinuing section is at place near NA2; and

(c) as in claims 19 and 96, the spherical aberration of the objective lens is continued without having a discontinuing section.

Saito teaches an objective lens where its spherical aberration has both a continuous and a discontinuous section at a place near a numerical aperture (Figs. 4a to 4d).

When focusing an image with an objective lens, the spherical aberration is continuous as illustrated in Figs. 4a and 4b of Saito. However, when a diffractive portion of the

objective lens is used so that its numerical aperture is changed in order to focus a light beam on a surface of different thickness, it would have been obvious to one of ordinary skill in the art at the time of invention to use an objective lens with a discontinuous spherical aberration such as Saito's, because such objective lens reduces flare caused by the thickness difference of the focused surface.

***Allowable Subject Matter***

9. Claims 113 and 114 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

As in claim 113, the prior art of record fails to teach or fairly suggest an objective lens having the following features:

(a) the first diffractive portion and the second diffractive portion are provided on the substantially the entire light flux-incoming surface or substantially the entire light flux-outgoing surface of the objective lens.

As in claim 114, the prior art of record fails to teach or fairly suggest an objective lens having the following features:

(a) the first diffractive portion and the second diffractive portion are provided on a part of a light flux-incoming surface or a light flux-outgoing surface of the objective lens.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

11. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, D.C.  
20231 Or faxed to:

(703) 872-9306 (for formal communications intended for  
entry. Or:

(703) 746-6909, (for informal or draft communications,  
please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park  
II, 2021 Crystal Drive, Arlington. VA., Sixth Floor  
(Receptionist).

Any inquiry of a general nature or relating to the status  
of this application should be directed to the Group  
receptionist whose telephone number is (703) 305-4700.

Any inquiry concerning this communication or earlier  
communications from the examiner should be directed to Kim CHU  
whose telephone number is (703) 305-3032 between 9:30 am to  
6:00 pm, Monday to Friday.

*Ke 9/3/04*

Kim-Kwok CHU  
Examiner AU2653  
September 3, 2004

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